



Tennessee Regulatory Authority Annual Report

"Promoting the
Public Interest:
Electric
Gas
Telecommunications
Water
...for the Future."

For the period July 1, 2000 to June, 30, 2001

www.state.tn.us/tra

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INTRODUCTION TO THE TENNESSEE REGULATORY AUTHORITY

February 1, 2002

The Honorable Don Sundquist
Governor, State of Tennessee

The Honorable John S. Wilder
Lt. Governor

The Honorable Jimmy Naifeh
Speaker of the House of Representatives

Members of the General Assembly

It is a pleasure to present you the Annual Report of the Tennessee Regulatory Authority for Fiscal Year 2000-2001. This report has been prepared in accordance with Tennessee Code Annotated § 65-1-211.

Within this report you will find highlights of the activities in which the TRA has been engaged during this past fiscal year. You will be able to review a budget summary, a breakdown of the accomplishments of each division and an abstract of the minutes of all TRA Directors' Conferences for the fiscal year.

The TRA is successfully managing the increased caseload resulting from passage of both the Tennessee Telecommunications Act of 1995, (Public Chapter 408) and the United States Telecommunications Act of 1996, while continuing to provide consumer services and ensuring the safety of Tennessee's natural gas distribution system.

At the present time there are 100 certified competing local exchange carriers in Tennessee. These companies are serving 10% of the total lines available to competitors and 28% of the business lines available to competitors. Fostering competition in the telecommunications industry will continue to be the hallmark of the TRA.

As we enter the second half of the fiscal year, we look forward to the many challenges that will arise. We also look forward to another year of support and encouragement from you.

We have endeavored to make this report thorough, informative and easily understood. If you have any questions or would like additional information, please feel free to contact us.

Respectfully submitted,

Sara Kyle, Chairman
Lynn Greer, Director
Melvin Malone, Director

INTRODUCTION TO THE TENNESSEE REGULATORY AUTHORITY



In 1995, the General Assembly passed legislation to create the Tennessee Regulatory Authority (Authority), a governing body to regulate utilities in the state of Tennessee. The Authority's mission is to promote the public interest by balancing the interests of utility consumers and providers while facilitating the transition to a more competitive environment.

Leadership for the Authority is comprised of three Directors, each of whom is appointed to serve a six-year term. Chairman Sara Kyle was appointed by Speaker Jimmy Naifeh; Director Lynn Greer was appointed by Governor Don Sundquist; and Director Melvin Malone was appointed by Lt. Governor John Wilder. Every two years the Directors themselves elect a chairperson.

INTRODUCTION Cont.

OUR MISSION

The mission of the Tennessee Regulatory Authority is to promote the public interest by balancing the interests of utility consumers and providers while facilitating the transition to a more competitive environment.

This mission is fulfilled through the functions of economic regulation, regulatory oversight, and service regulation and consumer assistance.

Economic Regulation — The Authority provides an accessible and efficient regulatory process that is fair and unbiased. And we ensure that the regulatory process results in fair and reasonable rates while offering rate-based regulated utilities an opportunity to earn a fair return on their investments.

Regulatory Oversight — The Authority provides appropriate and necessary regulatory oversight to protect consumers and facilitate the development of fair and effective competition in the provision of telecommunications services.

Service Regulation and Consumer Assistance — The Authority protects and educates the public in the changing environment of competition among utilities by becoming a consumer service focused agency. We also inform utility consumers regarding utility matters and expedite the resolution of disputes between consumers and utilities.

OUR PHILOSOPHY

To function with the highest degree of ethics, serving before the public with accountability and openness. To carry out our regulatory duties with diligence, while operating in a competent, effective, and efficient manner. In serving the public, we will balance the interests of consumers, regulated entities, and others, while maintaining a standard of excellence. This is accomplished by remaining technically up-to-date, utilizing modern state-of-the-art communications tools, computer systems and equipment, which allows for the responsive and accurate processing of consumer information, regulatory data, industry audits, inspection results, and requests for service.

The Tennessee Regulatory Authority is available on the World Wide Web at www.state.tn.us/tra. The web site contains a wide spectrum of information and services for consumers as well as for the utilities under our jurisdiction.

Visitors to our web site will find resources that encompass the scope of our duties related to the companies that we regulate and the consumer programs under our direction. A sample of what's available includes:

Consumer Information — Whether a person wishes to register for the Tennessee “Do Not Call” program, learn about the reasons for area code changes, file a consumer complaint, or learn about our telephone assistance programs, it can all be found under the “consumer information” listing on our homepage.

Divisional Information — Information about each division is located under the “TRA Divisions” section of the site. There you will find each division’s mission statement, along with a brief description of that division’s function within the Authority.

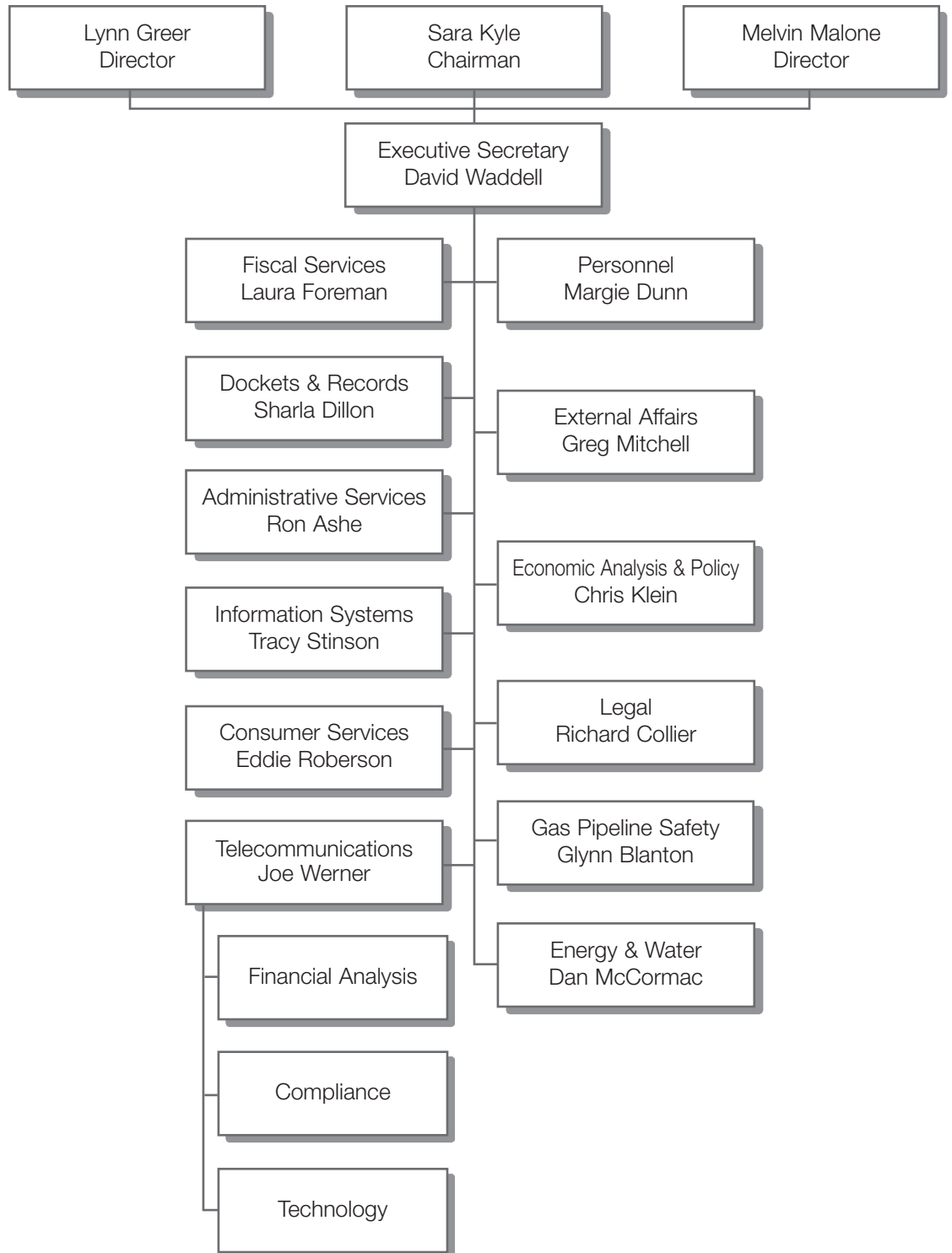
Regulatory Cases — Visitors can track the progression of a case online through the “Electronic Fileroom.” Updated daily, there are over 2,000 dockets cataloged for review. And to make searching for documents easier, a keyword search engine has been added to accelerate the search process.

Conference Agendas — To coincide with our bi-monthly Authority conferences, an online version of our conference agenda is posted weekly on our site. To access a copy, go to the “Electronic Fileroom” and locate “Final Conference Agenda.”

TRA News — Under “Press Releases” visitors will find information about recent Authority decisions.

Miscellaneous — Past and present TRA reports, TRA procedural Rules and Regulations, pertinent information related to gas pipeline news and utility applications and procedures, TRA Appeals and Petitions to the FCC, as well as TRA Orders can also be found online.

TENNESSEE REGULATORY AUTHORITY



INTRODUCTION Cont.

The Authority has jurisdiction over public utilities including:

electric companies,
telephone companies,
water companies, and
natural gas companies

Pursuant to T.C.A. § 65-4-104, statutory responsibilities include making rules for utility operations, utility rates, and regulating gas safety standards. Quasi-judicial powers allow the Authority to decide the granting of operating authority and to adjudicate conflicts and controversies arising from utility operations.

Financially independent of the General Fund, the Authority's operational expenses are covered wholly by the industries it regulates, with a small portion coming from the federal government.

As of June 30, 2001, the Authority was budgeted for 90 positions. The Divisions and staff members are as follows:

Directors	3 Directors
Directors' Staff	6 members
Executive Secretary	11 members
Consumer Services	15 members
Energy & Water	5 members
Gas Pipeline Safety	7 members
Information Systems	4 members
Legal	9 members
Telecommunications	20 members
Economic Analysis & Policy	4 members
Universal Service Division	6 members
	<hr/>
	90 staff members

Staff of the Authority includes accountants, administrators, attorneys, consumer specialists, economists, engineers, information systems and computer specialists, a public information officer, and office support.

UTILITIES UNDER THE AUTHORITY'S JURISDICTION

Listed below are the approximate number of utilities under the jurisdiction of the Tennessee Regulatory Authority as of June 30, 2001.

Energy & Water	
Electric	3
Natural Gas Companies	6
Water & Waste Water	12
Telecommunications	
Competing Telephone Service Providers	100
Customer Owned-Coin Operated Telephone Providers	233
Incumbent Telephone Companies	18
Interexchange Carriers (IXCs)	4
Local Service Resellers	92
Resellers and Operator Service Providers	295
Gas Pipeline Safety	
Apartments*	17
Direct Sales*	23
Housing Authorities*	37
Intrastate Pipeline*	7
LNG Operators*	3
Mobile Home Parks*	5
Miscellaneous Master Meters*	1
Municipalities*	74
Utility Districts*	22
Total Public Utilities	952

* These entities are regulated by the Authority only to ensure compliance with Minimum Federal Safety Standards for the transmission of natural gas.

EXECUTIVE SECRETARY'S OFFICE

K. David Waddell
Executive Secretary

MISSION: *To coordinate the activities of the Authority and ensure that matters brought before it are handled in a fair and impartial manner, always moving toward improving services to the people served by the authority.*

The Executive Secretary, in accordance with T.C.A. § 65-1-209, serves as the chief administrative officer of the Authority with the power and duty to conduct ordinary and necessary business in the name of the Authority. The specific duties of the Executive Secretary include:

- ◆ Subject to review by the Directors, employ and provide general supervision for such personnel as may be required to effect the purpose of the Authority;
- ◆ Serve as custodian of the Authority's official records by keeping a full and accurate record of all the proceedings and transactions of the Authority;
- ◆ Prepare annual budget;
- ◆ Supervise the expenditure of funds and compliance with all applicable provisions of state and federal law in receipt and disbursement of funds;
- ◆ Recommend to the Directors such rules and policies as are necessary and appropriate to efficiently and economically provide for the internal management of the Authority;
- ◆ Administer, monitor and review the operating procedures of each division of the Authority;
- ◆ Ensure that each division of the Authority fully executes in an efficient manner the separate duties and responsibilities assigned to each;
- ◆ Coordinate and expedite matters pending before the Authority.
- ◆ Prepare and distribute Directors' Conference Agendas.
- ◆ Schedule hearings;

In order to carry out these responsibilities, the Executive Secretary's office is divided into four areas: Dockets and Records, Personnel Office, Public Information, Fiscal and Administrative.

The **Dockets and Records Section**, under the direction of Sharla Dillon, has the following responsibilities:

- ◆ Process all filings by regulated companies and other parties;
- ◆ Maintain lists of all pending dockets;
- ◆ Arrange transcription of hearings;
- ◆ Maintain permanent records of all hearings; and

EXECUTIVE SECRETARY'S OFFICE

The **Personnel Office**, under the direction of Margie Dunn, performs all functions relating to human resource management including:

- ◆ Maintain personnel records;
- ◆ Coordinate training for Authority staff;
- ◆ Implement affirmative action plans;
- ◆ Coordinate insurance and retirement matters; and
- ◆ Prepare payroll.
- ◆ Arrange transcription of hearings;

The **Office of External Affairs**, under the direction of Greg Mitchell, performs the following functions:

- ◆ Write press releases regarding actions taken by the Authority;
- ◆ Prepare Authority reporting materials for the General Assembly;
- ◆ Publish a quarterly newsletter;
- ◆ Promote Authority website development;
- ◆ Coordinates Speaking Engagements;
- ◆ Monitors and maintains legislative relations;
- ◆ Develops and maintains the Authority's public awareness efforts.

The **Fiscal Office**, under the direction of Laura Foreman, performs the following functions:

- ◆ Supervises accounts payable/receivable;
- ◆ Oversees the agency's procurement functions;
- ◆ Audit and control expenditures;
- ◆ Maintain all fiscal reports for security purposes.
- ◆ Collect and deposit receipts.

The **Administrative Section**, under the direction of Ron Ashe, performs the following functions.

- ◆ Oversees all printing, form production and printed material inventories.
- ◆ Maintains an inventory of all equipment and supplies.
- ◆ Supervises the maintenance of the building and grounds by coordinating with property management, housekeeping and security personnel.
- ◆ Supervises the records management program.

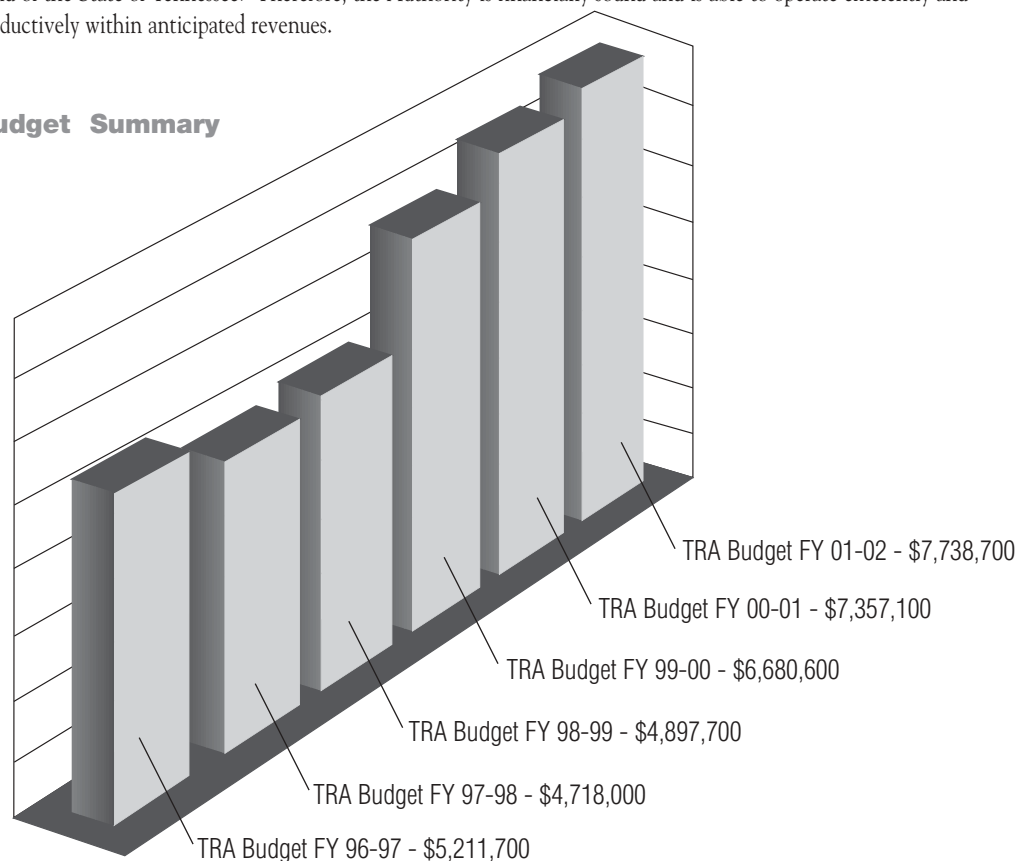
BUDGET SUMMARY APPROPRIATIONS, FEES AND EXPENSES

The TRA began fiscal year 2000-2001 (FY01) with a budget of \$7,357,100 which was a 10.1% increase over the FY00 budget of \$6,680,600. Over half of the increase (\$346,900 or 5.2%) was due to the statewide salary increases and related costs effective July 1, 2000. The balance of the increase granted was to enable the Agency to manage the ever increasing number of issues before the Agency. While actual expenditures increased 20.4% from \$5,345,746 to \$6,434,211 for the same period, the revenues received for the period increased 6.8% from \$6,869,872 to \$7,340,316. Of the \$906,105 excess in revenues over expenditures, \$471,914 is the result of the Telecommunications Devices Access Program, the use of which is governed by specific legislation.

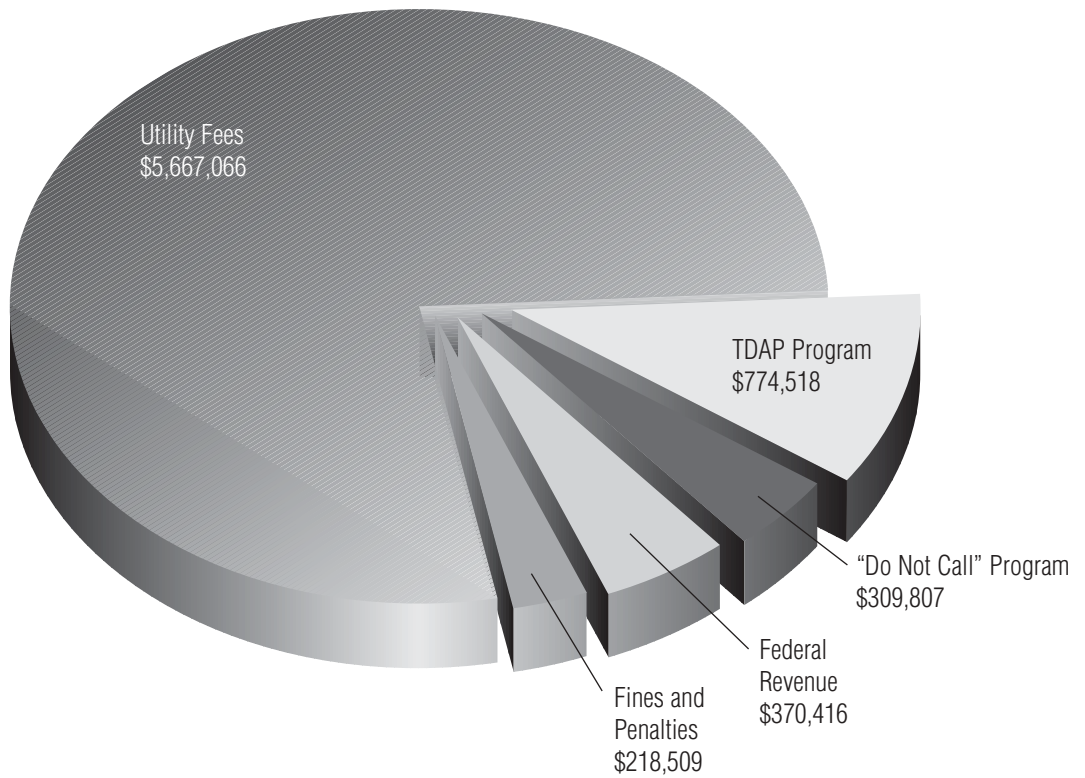
The majority of the revenues collected by the TRA are derived from utility inspection fees. These inspection fees are based on annual gross intrastate revenues and are paid by the public utilities to defray the cost of regulation by the TRA. Since the inception of the TRA on July 1, 1996, inspection fees have increased an average of 7.3% annually. During FY01 \$5,667,066 of the total revenue received was from inspection fees. In addition to the inspection fee revenue, the TRA received \$370,416 in federal revenue, \$309,807 in registration fees from telemarketers for the "Do No Call" program, \$774,518 in contributions to the "Telecommunications Devices Access Program," and \$218,509 in fines and penalties. All of these funds are deposited in the Public Utilities Account.

The budget for FY02 is \$7,738,700 of which 100% will be funded by revenues received from sources other than the General Fund of the State of Tennessee. Therefore, the Authority is financially sound and is able to operate efficiently and productively within anticipated revenues.

Budget Summary



**REVENUE OF TRA
FY 2000-2001**



**Total Revenue
\$7,340,316**

ABSTRACT OF MINUTES

The Abstract of Minutes of the Authority submitted hereafter covers the period from July 1, 2000 to June 30, 2001.

The minutes of the Authority are kept on permanent file in the office of the Executive Secretary. These are available to the public for inspection at all times. In addition to paper files, the TRA maintains an electronic file room on its web page (www.state.tn.us/tra). All documents filed since 1-1-99 are available for viewing and printing. The Official Minutes show every action taken by the Authority. The Abstract of Minutes is recorded in permanent bound volumes and prepared in a manner permitting immediate reference to the actions of the Authority. The following data is submitted in connection with each item of business:

- ◆ Docket Number
- ◆ Name of Applicant/Petitioner
- ◆ Subject Matter of Application/Petitioner
- ◆ Date of Final Order
- ◆ Summary of Authority's Action

ABSTRACT OF MINUTES (cont.)

An abstract or condensation of the Minutes is as follows:

VOLUME OF PROCEEDINGS BEFORE THE AUTHORITY FOR FISCAL YEAR ENDING JUNE 30, 2001

	FY 97	FY 98	FY 99	FY 00	FY 01
Total Number of Filings	375	702	1454	1808	1925
Tariffs Reviewed	316	444	438	588	691
Interconnection and Resale Agreements Approved	42	69	81	87	146
COCOT Authorities Issued	212	62	48	41	36
Reseller Certificates Approved	78	91	134	87	41
Number of Conferences	27	25	26	26	24
Hearings	60	86	53	84	86
Hearing Days	35	100	55	76	75
Final Orders Issued	174	212	445	336	472
Orders on Appeal	5	6	6	7	17



CONSUMER SERVICES DIVISION

Eddie Roberson, Ph.D
Chief

Mission: To ensure that consumers are aware of the changes in the utility arena and receive an adequate level of services from regulated companies by providing consumer outreach and monitoring the services they provide through conducting quality of service tests, initiating investigations, mediating consumer-utility disputes and enforcing the Authority's rules and regulations.

The Consumer Services Division ("CSD") is responsible for monitoring the quality of services provided by regulated utilities and enforcing the rules and regulations of the Authority. The major aspect of this responsibility is to investigate and mediate consumer complaints against regulated utilities pursuant to T.C.A. §§ 65-4-119 and 65-4-401 et seq. The CSD also performs other functions such as: serving as the consumer education/outreach office for the Authority developing and implementing programs to educate the public on utility issues; implementing the Do Not Call Telemarketing statute entailing the registration of solicitation companies and maintaining the Do Not Call Register; and distributing assistive telecommunications devices to the deaf, deaf-blind, Hard of Hearing, Hearing and Vision and Speech-Impaired community in compliance with TCA § 65-21-115.

The CSD conducts service hearing, community meetings, utility service audits, offers testimony at utility proceedings and recommends enforcement action on utilities not complying with state law or the rules and regulations of the Authority. The CSD also monitors the operation of the Tennessee Relay Center for the hearing, speech and visually impaired.

The CSD staff consists of a chief, three program administrators, one legal assistant, four administrative secretaries, and six consumer specialists.

2000 Major Activities

- ◆ Investigated 2,641 consumer complaints against utility companies.
- ◆ Assisted in securing refunds of \$546,133.09 to consumers as a result of investigations.
- ◆ Began implementing the Tennessee Assistive Telephone Device Distribution Program. The program was authorized by T.C.A. 65-21-115. The program will provide telecommunications equipment to the state's deaf, blind and hearing-impaired population. Administrative rules have been promulgated and operational procedures established. This program was initiated on January 1, 2000, pursuant to state law. The Telecommunications Devices Access Program has issued 1354 devices to 1,162 deaf, deaf-blind, hard of hearing, hearing and vision and speech impaired consumers, spending \$206,167 on the devices.

CONSUMER SERVICES DIVISION

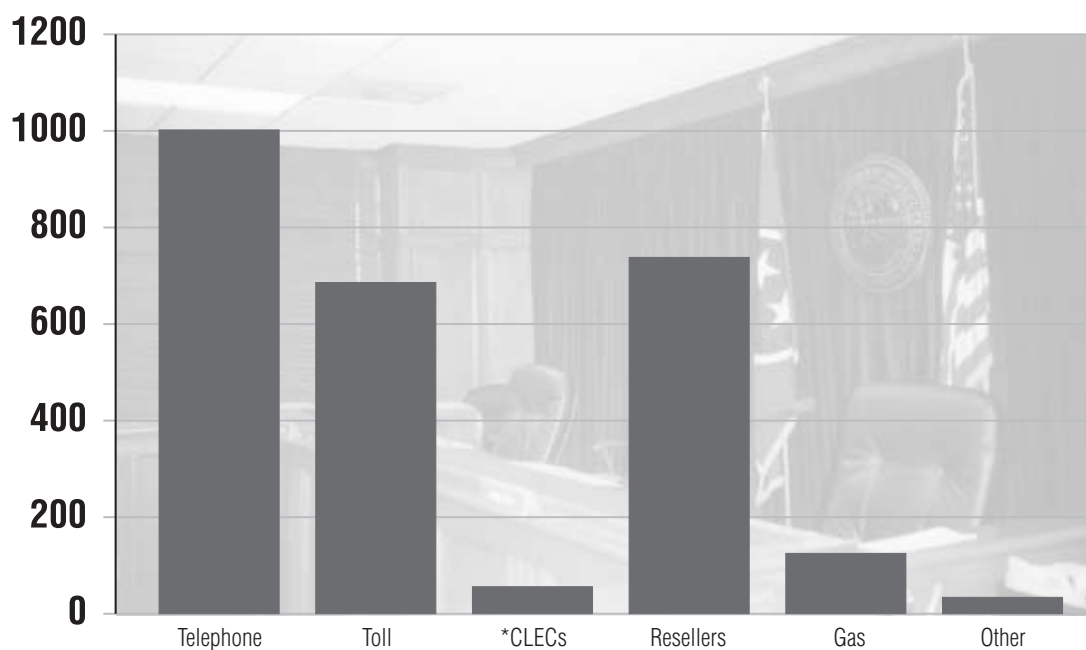
- ◆ Investigated telecommunications companies for violation of TRA Rules and Regulations. These investigations led to settlements where the companies agreed to pay \$59,000 in fines and penalties to the State in addition to several thousands of dollars in refunds to consumers. These settlements centered on investigations regarding: (1) The unauthorized switching of a consumer's local or long distance service (referred to as "slamming") (2) The unauthorized placing of charges on a consumer's telephone bill (referred to as "cramming") and (3) The Solicitation of consumers on the Do Not Call Register.
- ◆ Investigated 310 complaints against telephone companies for switching a consumer's phone service without authorization during 2000, which is the lowest yearly total since 1994. A total of \$36,638 was refunded to consumers from companies found in violation of the Authority's rules and regulations.
- ◆ Administered the Link-up Telephone Assistance Program. This Program assist low- income citizens by reducing the installation charge of telephone service during 2001, 5262 recipients saved \$157,860 utilizing the Link-up Tennessee program.
- ◆ Administered the Lifeline Telephone Assistance Program. This Program is designed to ensure that all Tennesseans have access to affordable telephone service. Approximately 47,070 Tennesseans signed up for this reduced rate telephone service and saved approximately \$7,074,282 on their telephone bills. The number of participants in the program represents a 34 percent increase from 1999.
- ◆ Received competitive bids for the Tennessee Relay Center ("TRC") for operations during 2001 - 2006.
- ◆ Reviewed the operations of the "TRC" to ensure that they comply with the Authority's rules and regulations. The TRC is a service designed to assist the speech and hearing impaired with the telephone calls. The TRC's total volume for the fiscal year was 878,170. That is an increase of 18,010 calls over last years total.
- ◆ Administered the Tennessee "Do Not Call" Program (T.C.A. 65-4-401). The new Program became effective July 1, 2000. For the Fiscal year 2000, over 510,000 Tennesseans have signed up for the program and 375 telemarketing companies had registered with the TRA. The TRA has investigated approximately 400 telemarketing complaints from consumers since the implementation of the Program.

CONSUMER SERVICES DIVISION

- ◆ Drafted a new telemarketing rule allowing for a reduced registration fee for independent solicitors operating under a primary solicitor.
- ◆ Implemented the new (731) area code in West Tennessee

Illustrated below are several graphs depicting the trend in utility complaint statistics.

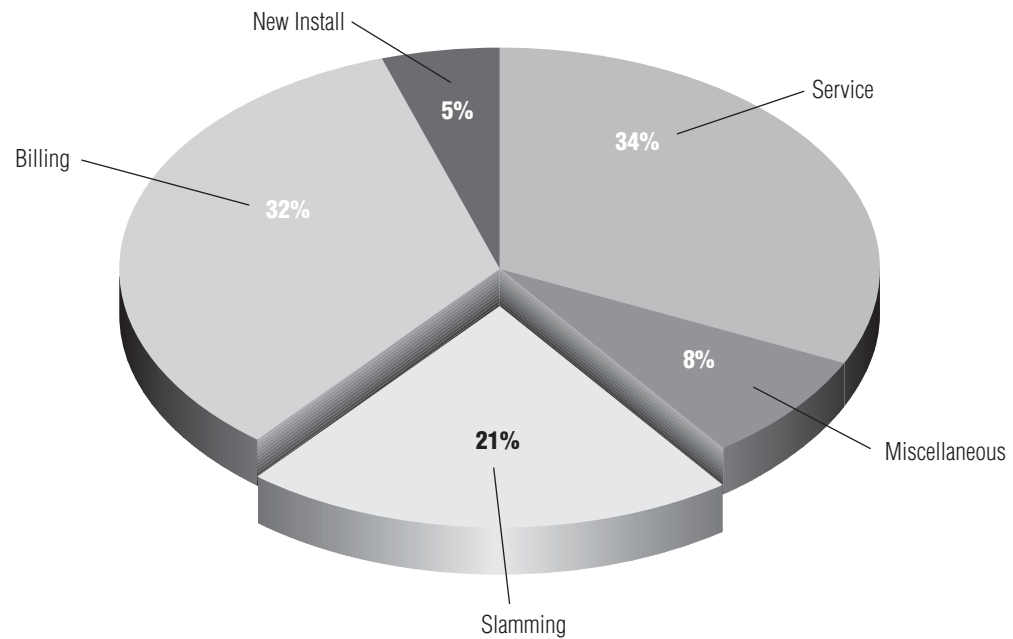
Categories of Complaints Investigated by Utility During 2000:



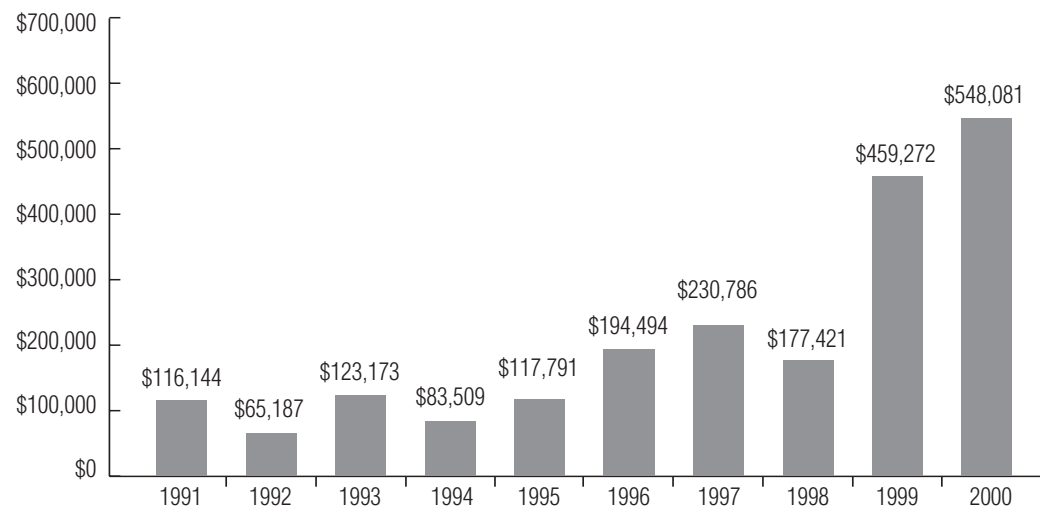
*Competitive Local Exchange Companies

CONSUMER SERVICES DIVISION

Categories of Telecommunications Complaints

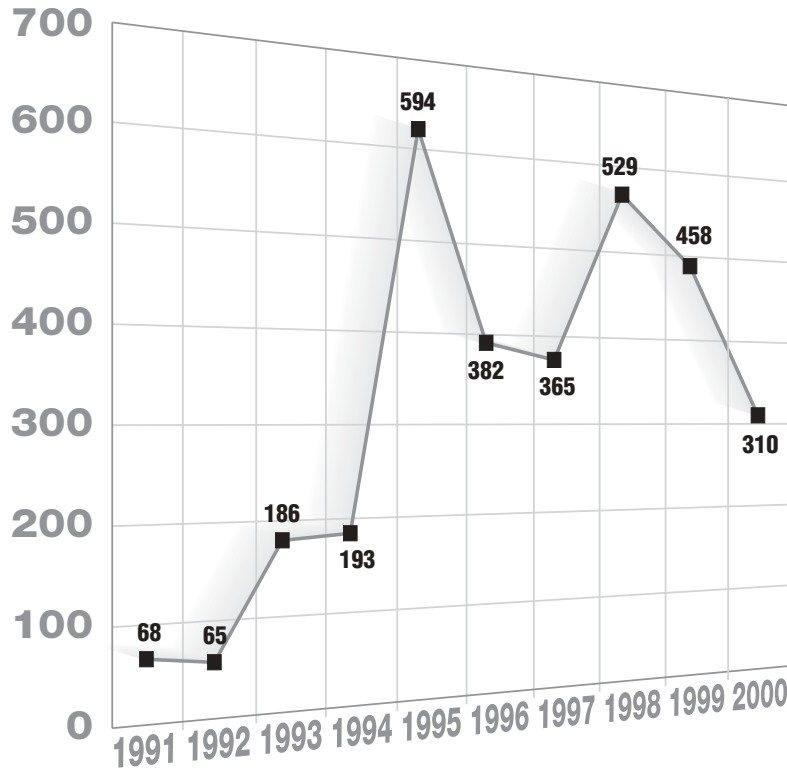


Utility Adjustments to Consumers Resulting from Complaint Investigations

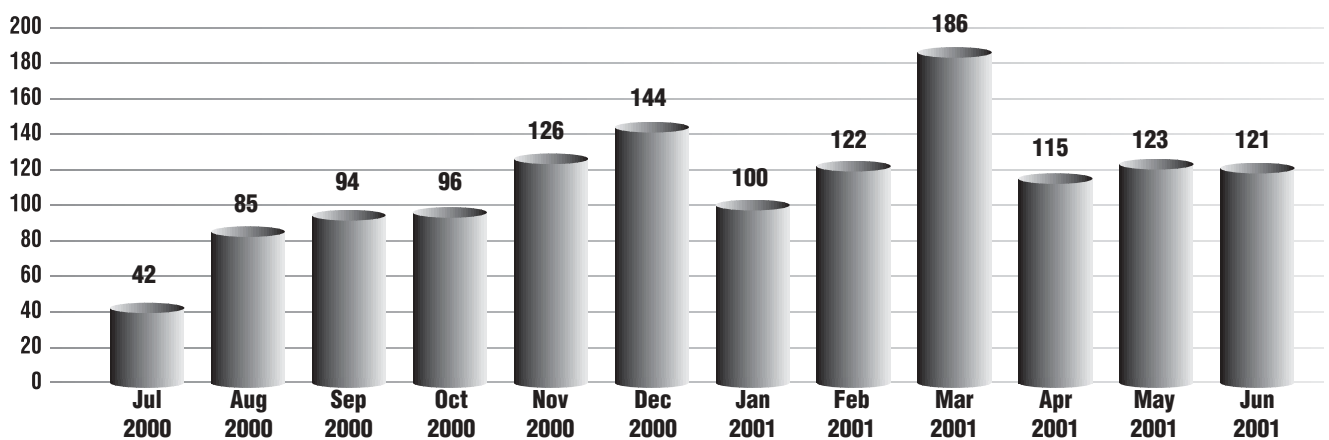


CONSUMER SERVICES DIVISION

Slamming Complaint History 1991-2000



Telecommunication Devices Access Program Devices Distributed



ECONOMIC ANALYSIS & POLICY DIVISION

Dr. Christopher C. Klein
Chief

MISSION: To provide economic research, analysis, and advice to the Directors and staff of the Tennessee Regulatory Authority (TRA).

At the request of the Directors or staff, the Economic Analysis Division reviews evidence and provides advice in contested cases coming before the Directors for decision. Division staff participated in one hundred and seventy-seven (177) docketed proceedings before the TRA, including: a proceeding to set wholesale prices for telephone line sharing; rate cases for Lynwood Utility Corp., Antioch Water Company, and United Telephone Company; various tariff changes, special contract arrangements, and arbitrations of interconnection agreements.

The Division has primary responsibility for reviewing applications for the approval of mergers, acquisitions, transfers of authority and the issuance of new financial instruments by public utilities. Division staff reviewed 52 of these applications between July 1, 2000 and June 30, 2001. Amendments to the Authority's Slamming Rules to handle financial transactions involving transfers of customers among companies were also initiated by Division Staff during this fiscal year. The amended rules are set to become effective on January 14, 2002.

The Division also prepares reports, undertakes long term research, and manages the student internship program. Division staff took a leading role in the TRA's portion of a report produced jointly with the Tennessee Department of Education entitled Connecting Tennessee: Bridging the Digital Divide, delivered to the General Assembly in June 2001. The Division also contributed to the TRA's biennial report to the General Assembly on the status of telecommunications in Tennessee.

Student interns are assigned research projects to complete during a semester of part-time work at the Authority. Five interns participated in the program during this fiscal year. Two interns examined basic telephone service penetration rates in Tennessee using 1990 and 2000 census data, while two others researched aspects of electric industry restructuring. One intern investigated the use of Performance-Based Budgeting by regulatory agencies in other states.

The research program also includes the participation of Division staff in professional meetings and the publication of research papers. Division staff attended the National Association of Regulatory Utility Commissioners Annual Regulatory Studies Program as well as conferences addressing the digital divide, changes in the energy industries, and the status of the Public Utility Holding Company Act. Research papers by Division staff were accepted for presentation at the forthcoming annual meetings of the Southern Economic Association and the American Economic Association. Three other papers were accepted for publication in The Electricity Journal, Tennessee's Business, and the National Regulatory Research Institute's Quarterly Bulletin. Another paper is under review by the Southern Economic Journal.

The Division also undertakes strategic planning for the TRA by identifying likely future issues affecting the industries under TRA jurisdiction. Current projects include: the implications for Tennessee of restructuring of the U. S. electric power industry; monitoring the status of universal telephone service in the state; and a study of the availability of wireless telephone service in Tennessee that the General Assembly requested from the TRA.

ENERGY & WATER DIVISION

Dan McCormac
Chief

MISSION: The Energy and Water Division is responsible for providing the Authority with technical assistance and financial recommendations on energy, water, and sewer service issues facing Tennessee. This is to ensure that all regulated services are provided in a safe, reliable and efficient manner that meets the diverse needs of our citizens, enhances economic development and strengthens Tennessee's competitive environment.

DIVISION RESPONSIBILITIES:

Price and Earnings Adjustments

Tennessee Code Annotated Sections 65-5-201 through 65-5-209 give the Authority the responsibility of setting or approving the rates and prices charged by public utilities, as defined in Section 65-4-101, operating within the State of Tennessee. The Division assists the Authority in carrying out this responsibility by evaluating periodic rate and price increase requests filed by utilities.

Tariffs (44)

Each utility under TRA jurisdiction is required to submit a schedule of its rates, rules and regulations in the form of a tariff. These utilities may file proposed revisions from time to time in order to adjust their tariffs. The Division reviewed 7 tariff filings and 37 Purchased Gas Adjustments (PGAs) filings.

Audits (12)

There are four (4) basic types of audits performed by the Energy and Water Division. These audits are: Compliance audits, Actual Cost Adjustment (ACA) audits, Weather Normalization Adjustments (WNA) audits and Performance Incentive Plan (IPA) audits.

- 1) **Compliance Audits (1)** - Compliance audits are performed to monitor the utility's compliance with applicable laws, orders, and policies of the Authority, as well as utility accounting operations to insure compliance with the Uniform System of Accounts (USOA) prescribed by the National Association of Regulatory Utility Commissioners. The Division schedules and conducts these audits as needed to fulfill its responsibilities. The Division Staff audited one company, Aqua Water Company.
- 2) **ACA Audits (6)** - The Authority's Rule 1220-4-7-.02 permits a gas utility to recover, in a timely fashion, the total cost of gas purchased for delivery to its customers. The Purchased Gas Adjustment (PGA) Rule, which was adopted July 1, 1992, is the mechanism used to accomplish the recovery. It consists of three major components:
 - ◆ Actual Cost Adjustment (ACA)
 - ◆ Gas Charge Adjustment (GCA)
 - ◆ Refund Adjustment (RA)

ENERGY & WATER DIVISION

The ACA is the difference between the revenue billed customers by means of the GCA and actual costs paid to suppliers as reflected in the Deferred Gas Cost account. The rule requires the utility to submit a filing each year detailing the transactions in the Deferred Gas Cost Account. The TRA Staff audits this filing to determine that the utility is following all the rules, regulations, and directives adopted by the Authority. This provides assurance to the Authority that the utility has not over-collected or under-collected gas costs from its customers.

Each year, the Staff conducts ACA audits on the six gas distribution utilities under rate jurisdiction of the TRA: Chattanooga Gas Company, Nashville Gas Company, United Cities Gas Company, Counce Natural Gas, Gasco Distribution Systems, and Red Boiling Springs Gas Utility. During the 2001 fiscal year, the Staff reviewed gas invoices for these utilities totaling approximately \$239.2 million. The Staff also reviewed all adjustments made to the Deferred Gas Cost accounts, the underlying supporting documentation, the calculation of gas cost recoveries and compliance with PGA filings, including ongoing Refund Adjustments, and the calculation of interest on account balances. The Staff recalculated sample bills for each month of the audit period to assure that the correct tariff rates and gas cost adjustments were being passed on to the customers. Audit results and recommendation are detailed in an audit report.

- 3) **WNA Audits (3)** - In setting rates, the Tennessee Regulatory Authority uses a normalized level of revenues and expenses for a test year to eliminate unusual fluctuations. One part of normalizing revenues in the test year is the adjustment of weather related sales volumes to reflect “normal” weather, which is calculated based on the previous thirty years’ weather data. Since “normal” weather rarely occurs, the customer bills can fluctuate dramatically due to weather changes from month to month, and gas companies’ revenues likewise fluctuate, causing them to earn more or less than their authorized rate of return. In recognition of this fact, the TRA has approved the Weather Normalization Adjustment (WNA) Rider, to be applied to residential and commercial customer bills during the winter months.

The TRA Staff conducts audits each year of the WNA Rider as it is applied to the three major gas companies: Chattanooga Gas Company, Nashville Gas Company, and United Cities Gas Company. In order to meet the objectives of the audit, the Staff compares the following on a daily basis:

- 1) The company’s actual heating degree days to National Oceanic and Atmospheric Administration (NOAA) actual heating degree days;
- 2) The company’s normal heating degree days to the normal heating degree days calculated in the last rate case; and
- 3) The company’s calculations of the WNA factors to the Staff’s calculations.

The Staff also audits a sample of customer bills during the WNA period to verify that the WNA factor has been correctly applied to the bills. Results of the audits and any recommendations are detailed in the annual audit report for each company.

During the 2001 fiscal year, WNA related revenues for the three gas utilities amounted to \$6 million in refunds. Staff audit findings showed a net under-collection of WNA revenues of \$15,310 from the ratepayers of Tennessee.

- 4) **IPA Audits (2)** - The Performance Incentive Plan mechanism was approved by the TRA and is designed to provide incentives to the gas utility in a manner that will produce rewards for its customers and its shareholders, and improvement in the gas procurement activities.

Two of the three major gas companies now have in place Performance Incentive Plans. On August 18, 1998 for Nashville Gas Company and on February 16, 1999 for United Cities Gas Company, the TRA approved permanent performance-based ratemaking mechanisms, designed to create an incentive for the company to improve its gas purchasing activities. If the

ENERGY & WATER DIVISION

company is able to perform better than the market, as defined by pre-defined benchmarks, both the company and its ratepayers benefit by sharing equally in the savings. Likewise, if the company purchases gas above the pre-defined benchmarks, the Company absorbs half of the costs in excess of an established deadband. The Incentive Plan replaces the after-the-fact reasonableness or prudence reviews of gas purchasing activities as required by the Purchased Gas Adjustment Rule.

Nashville Gas Company and United Cities Gas Company are required to file a report of the shared savings and shared costs in the Incentive Plan Account at the end of each plan year. The Staff audits these filings similar to the audits conducted for the ACA filings.

Miscellaneous Projects

Certificate of Convenience and Necessity (CCN) Applications (10)

CCNs are required by law for each public utility operating in Tennessee. During the 2001 fiscal year, ten CCN applications were reviewed by the TRA.

Annual Report Audits (19)

Nineteen energy & water utilities file annual reports with the TRA. The Division Staff audits these annual reports to ensure the completeness of their financial data.

Internal Financial Statements Data Base (204)

The Division receives monthly internal financial statements from the five largest energy & water utilities. The information contained in these financial statements is compiled in a database, which is continuously updated. The database is used to provide historical information when rate cases are filed by these utilities. Computer system upgrades at several of the companies have led to a change in the format of reports provided to the Authority. As a result, the number of database files has decreased from the previous fiscal year.

Utility Deregulation

The significant issues raised by problems encountered in other states have substantially reduced the interest in deregulation of energy utilities. However, we continue to monitor and participate in the research of various alternative forms of regulation.

High Natural Gas Prices

For the last ten years, natural gas prices at the wellhead fluctuated within a range of \$.10 to \$.40 per therm. In January 2001, natural gas prices soared to almost \$1.00 per therm. Since our nation's natural gas supply is an unregulated commodity just like oil, propane or coal, gas distributors have no control over the wellhead price of natural gas. While the high cost of the natural gas commodity is not regulated by the TRA and must be paid by consumers as a portion of the retail rates, the distribution charges that we regulate did not increase last year.

We expended significant resources to educate consumers, the gas distributors, and ourselves in an effort to minimize the effects on consumers. We monitored the gas price and supply situation, and the associated impacts on consumers. At our request, the gas distribution companies implemented significant changes in policy to be responsive to consumers' problems associated with the unprecedented price increases.

Fortunately, current wholesale natural gas prices have decreased to a level of approximately \$.30 per therm. In addition, some of Tennessee's distributors have taken steps to minimize price volatility. However, while such steps will help to avoid extreme price spikes, they usually increase the long run average cost of gas as well. Therefore, we continue to work with the industry to explore ways of minimizing the adverse effects of a tighter energy supply outlook.

ENERGY & WATER DIVISION

CUSTOMERS SERVED BY ELECTRIC, GAS, AND WATER & SEWER UTILITIES IN TENNESSEE 2000

COMPANY	Residential	Commercial	Industrial	Other	Totals	Residential	
						Annual Usage	Annual Bill
GAS UTILITIES:						MCF	
Chattanooga Gas Company	48,260	7,847	72	7	56,186	71	\$608.00
Counce Natural Gas	117	30	1	-	148	52	\$418.25
Gasco	357	73	10	-	440	63	\$569.09
Nashville Gas Company	123,282	16,245	172	-	139,699	79	\$634.97
United Cities Gas Company	101,443	15,087	408	711	117,649	69	\$632.37
RBS Gas Utility	215	20	1	-	236	57	\$435.42
WATER/SEWER UTILITIES: Gallons							
Antioch Water (water)	243	-	-	-	243	1,267	\$172.16
Aqua Utilities (water & sewer)	267	-	-	-	267	45,067	\$140.58
Cartwright Creek (sewer)	466	30	-	-	496	N/A	\$356.57
Foothills Properties (water)	91	-	-	-	91	N/A	\$437.32
Lynnwood Utilities (sewer)	597	-	-	-	597	N/A	\$542.75
Newport Utilities (water)	49	-	-	-	49	49,351	\$287.67
On Site Systems (sewer)	90	-	-	-	90	N/A	\$441.79
Riveria Utilities (water)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Shiloh Falls Utilities (sewer)	81	-	-	-	81	N/A	\$685.85
TN American Water Co. (water)	60,242	7,863	153	1,628	60,886	43,491	\$200.99
TN Water Service (water)	499	-	-	-	499	61,552	\$418.02
Hickory Star (water)	51	-	-	-	51	N/A	\$234.43
ELECTRIC UTILITIES:							
Entergy Arkansas, Inc.	35	6	7	N/A	48	6,277	\$572.22
Kentucky Utilities Co.	4	-	1	-	5	24,166	\$459.25
Kingsport Power Co.	39,503	4,857	196	173	44,729	28,283	\$1,124.89

GAS PIPELINE SAFETY DIVISION

Glynn Blanton
Chief

MISSION: Protect the public and environment from accidental release of natural gas or hazardous liquid products by pipeline. This protection is provided by a technologically advanced compliance program that promotes educational standards for industry and contributes to the health and security of the citizens of Tennessee.

A YEAR IN REVIEW

The Authority's Natural Gas Pipeline Safety certification with the United States Department of Transportation Office of Pipeline Safety (OPS) was renewed by agreeing to carry out a program to enforce those safety regulations contained in Parts 191, 192, 193 and 199 of the Code of Federal Regulations. This was the fifth year the agency has entered into this agreement. The federal government's annual review of the Authority's gas pipeline safety program, to insure that federal guidelines, enforcement of safety laws, and state grant regulations are met, received a score of 98 points. The number of points awarded is directly related to the federal government's grant-in-aid reimbursement amount to the state's gas pipeline safety program. The grant allocation amount was forty-seven percent of the actual cost of the program and the remaining fifty-three percent was provided through the agency's pipeline safety user fees. Gas safety engineers continued to conduct an array of safety, operation, construction, maintenance and drug and alcohol inspections on all liquefied natural gas facilities and natural gas distribution systems in Tennessee.

Risk Management

The Local Distribution Company Regulatory Alternatives Feasibility Team (LDC RAFT) was established under the guidance of the Federal Office of Pipeline Safety (OPS). This team, consisting of the division chief, Glynn Blanton, five other state pipeline safety representatives, and six natural gas distribution operators, conducted a comprehensive feasibility study to explore alternatives to the current pipeline safety regulations that could result in improved safety. The team completed the study in December and released their final report to the National Association of Regulatory Utility Commissioners (NARUC) at their summer meeting in Seattle, Washington. The LDC RAFT Report has been made available for public access on OPS's web site <http://ops.dot.gov>. The report indicated that it is feasible to develop and implement alternatives to current pipeline safety regulations to achieve equivalent or improved safety and reliability in a cost-effective manner. Two of the potential alternatives identified are waivers and risk-based initiatives. Approval authority for specific regulatory alternatives for intrastate natural gas pipelines must reside with state regulatory authorities. The final report will assist all state public service commissions in the establishment of a risk management program for local natural gas distribution companies.

The Federal Office of Pipeline Safety with input from this division approved a risk management initiative with Duke Energy Corporation. The initiative that includes several locations in Middle Tennessee will be monitored by the Office of Pipeline

GAS PIPELINE SAFETY DIVISION

Safety Southern Region and our agency staff members. All seven sites are changing from Class 1 to 2 and involve pressure and monitoring changes.

Activities and Accomplishments:

- ◆ The division chief continues to participate with the Office of Pipeline Safety (OPS) in a Damage Prevention Path Forward (DPPF) initiative and focus on efforts toward the implementation and development of damage prevention best practices. The DPPF initiative led to the development of the Common Ground Alliance (CGA), a nonprofit organization dedicated to continue the damage prevention efforts begun during the Common Ground Study. The CGA will address the many issues involved in protecting the nation's underground infrastructure from outside force damage. Full representation and participation of all fifteen-stakeholder groups is essential to the success of the CGA. Initially serving as an interim board member of the organization, the division chief was elected by the CGA state regulator group members to the Board of Directors. His term of office will expire in 2002. The CGA web site address is <http://www.commongroundalliance.com>.
- ◆ In January 2001, the Authority applied to the Federal Office of Pipeline Safety and was awarded a One-Call grant in the amount of \$47,500. The grant, which began in January and ends in December 2001, will be used to give presentations to local law and code enforcement agencies about changes in the Tennessee Underground Utility Damage Prevention law and what responsible action officers need to take when a complaint has been filed. The presentation provides handout material, a brochure, and a copy of Tennessee Code Annotated section 65-31-101 through 113 that will assist the police officers in the enforcement of the law. Presentations are being conducted all year during Metro-Nashville's Police In-service training. Other presentations have been done this year for United Cities Gas-Union City, First Utility District of Tipton County, Nashville Area Utility Caucus Group, Livingston Gas, Chattanooga Gas, New Tazewell, Knoxville Utility Board, and United Cities Gas- Maryville-Greeneville, Morristown. The program will continue into 2002.
- ◆ In July 2001, the division chief introduced and supported a resolution before the National Association of Regulatory Utility Commissioners (NARUC) on adopting the final LDC RAFT report by the Local Distribution Company Regulatory Alternatives Feasibility Team. The resolution included a request that federal legislative action be taken to address the need for an emergency waiver of Pipeline Safety regulations during abnormal system operation and supply problems on local distribution systems. The resolution was adopted by NARUC.
- ◆ This agency requested and received written interpretation from the Federal Office of Pipeline Safety (OPS) on jurisdictional authority over the Stone Mountain Pipeline Company project located in Martins Fork to Rose Hill, Tennessee. On August 17, 2001 OPS indicated that the pipeline is an intrastate transmission line and therefore falls under our authority in accordance with Section 60105 certification. Another interpretation requested by this agency

GAS PIPELINE SAFETY DIVISION

pertaining to a Tennessee Valley Authority (TVA) pipeline located in New Johnsonville, Tennessee was determined by OPS to be non-jurisdiction since TVA is considered a federal government entity.

- ◆ This agency continues to have a representative on the Federal Office of Pipeline Safety “Dig Safely” Team. The team has renewed its effort to promote underground facility damage prevention through the national campaign. Efforts are underway to rebuild the team member roster by seeking participation by representatives of additional damage prevention stakeholder organizations.

The team produced a new Dig Safely awareness video and it was mailed to all natural gas operators across the State.

- ◆ The GPSD, in conjunction with the Tennessee Gas Association (TGA), has been involved with seminars and roundtable discussions across TN in preparation for the Operator Qualification rule. The federal “Operator Qualification” rule gives all natural gas operators eighteen (18) months from the effective date of October 26, 1999 to develop their written qualification program and thirty-six (36) months from the effective date to qualify all employees performing a covered task.
- ◆ Approximately 370 TRA welding cards were issued during the fiscal year. Natural gas pipeline welders are tested annually or every six months, depending upon the conditions under which they are qualified. The GPSD reviews welding test results and issues welding cards to qualified welders. The GPSD is responsible for ensuring that all Tennessee natural gas operators and their contractors use welders who have been tested and qualified by an established qualified written welding procedure.
- ◆ For the fifth consecutive year, a GPSD representative continues to assist the Federal Transportation Safety Institute (TSI) as an Associate Staff member. Classes conducted at TSI facilities in Oklahoma City, Oklahoma, prepare federal and state pipeline safety personnel to evaluate pipeline safety programs for compliance with federal regulations. Our representative participates in the TSI course titled “Gas Pressure Regulations and Overpressure Protection.” Students learn the relationship of pressure, volume, and temperature based on mathematical analysis. This representative has trained over one hundred fifty federal and state personnel.
- ◆ Prior to the April 27, 2001 regulatory deadline, the GPSD Trainer/Engineer conducted twenty-two seminars detailing the requirements for written Operator Qualification (OQ) plans. These seminars were provided for operators of master meter and local distribution natural gas systems. The Trainer/Engineer continues to assist these operators as they work towards the October 28, 2002 regulatory deadline for qualification of individuals performing covered tasks. A series of 46 presentations is under development that will provide additional knowledge to these individuals so that they will be better prepared for their qualification evaluations.

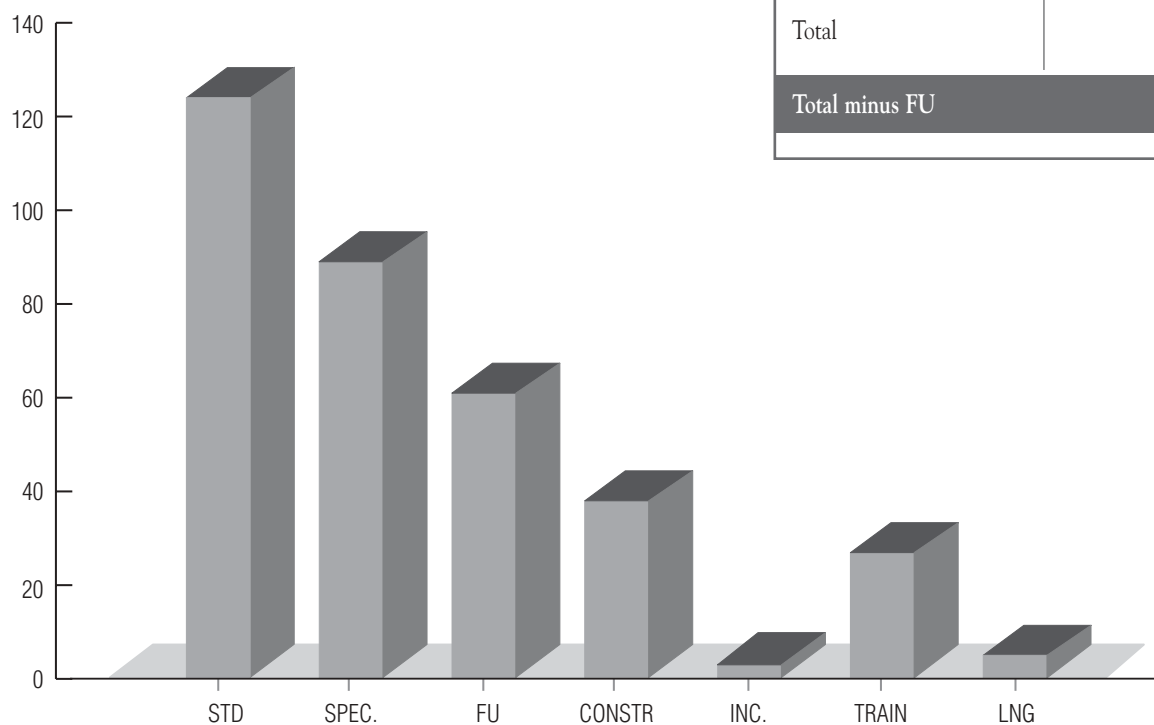
INSPECTIONS

Two hundred eighty-six gas safety inspections were performed on local distribution systems in Tennessee. These inspections ensure that all operators are complying with the Minimum Federal Safety Standards (MFSS) by maintaining records, making reports, updating their operations and maintenance plans, and promptly repairing all hazardous leaks. These natural gas distribution operators consist of private companies, municipalities, utility districts, master meter, direct sales, and liquefied natural gas facilities. Staff members conduct several types of inspections to ensure compliance with all sections of the MFSS. Each operator’s drug and alcohol programs are reviewed annually to ensure that testing is being conducted. The chart below shows the numbers and types of inspections conducted from July 1999 to June 2000.

GAS PIPELINE SAFETY DIVISION

Number of Inspections Performed July 2000 - June 2001

Inspections by Type



Inspections	
Standard	124
Specialized	89
Follow-Up	61
Construction	38
Incident	3
Training	27
LNG	5
Total	347
Total minus FU	286

GAS PIPELINE SAFETY DIVISION

Violations cited and closed

The violations cited by staff members against an operator are recorded and filed on an ongoing basis. Each operator receives verbal and written notices of the violations and is given sixty days from their receipt of the written notice to correct any deficiencies that may have warranted a citation. A follow up inspection is scheduled after the sixty day time period to ensure that action is being taken by the operator to correct all violations. Failure to take corrective action on cited violations could subject the operator to civil penalties in accordance with TCA Section 65-28-108. The steady decrease in the number of new violations cited can be attributed to the operator's ability to better comply with the MFSS and the priority given for safety of the transportation and distribution of natural gas. Listed below are the violations cited and closed.

Operator	Violations Cited	* Violations Closed
Private	14	6
Municipal	115	56
Utility District	8	2
Master Meters	55	30
Liquefied Natural Gas	5	0
Intrastate Pipeline	28	0
Totals	225	94

*Several violations previously cited in prior year were closed during the current year.

Civil Penalties

Tennessee Code Annotated section 65-28-108 states: "Any person who violates any provisions of the adopted Minimum Federal Safety Standards is subject to a civil penalty not to exceed ten thousand dollars (\$10,000) for each such violation for each day that such violation persists, except that the maximum civil penalty shall not exceed five hundred thousand dollars (\$500,000) for any continuing series of violations." No civil penalties were levied against natural gas operators for non-compliance action in correcting violations. The action of levying penalties is a method used by the TRA to protect the public and to ensure that operators are providing safe transportation of natural gas by pipelines.

GAS PIPELINE SAFETY DIVISION

Natural Gas Incidents

The Minimum Federal Safety Standards Section 191.3 defines an incident as any of the following: 1. An event that involves a release of gas from a pipeline or liquefied natural gas or gas from an LNG facility and i) a death, or personal injury necessitating in-patient hospitalization; or ii) estimated property damage, including cost of gas lost, of the operator or others, or both, of \$50,000 or more, 2. An event that results in an emergency shutdown of an LNG facility, 3. An event that is significant, in the judgment of the operator, even though it did not meet the criteria of parts 1 or 2.

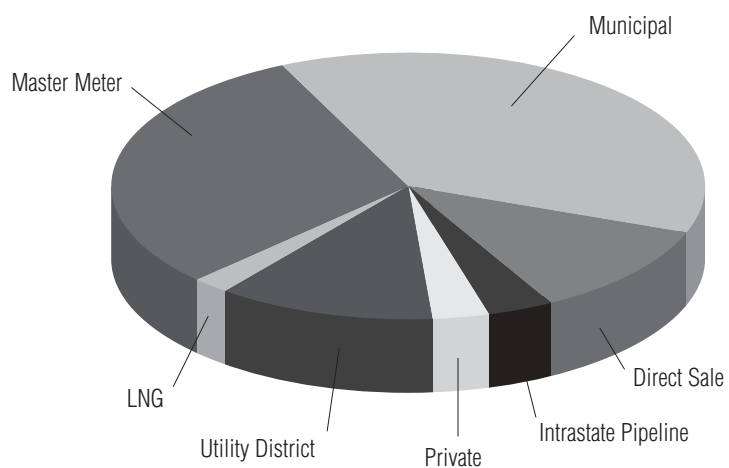
One non-reportable and two reportable incidents were called in to the Gas Pipeline Safety Division in the past fiscal year. The reportable incidents resulted in no personal injury. The goal of the Gas Pipeline Safety Division is to enforce the Minimum Federal Safety Regulations that all natural gas operators must follow. Strict adherence to safety regulations and procedures is crucial in helping to prevent the release and subsequent ignition of natural gas.

GAS PIPELINE SAFETY DIVISION

Types of Operators

Operator Type	Number of each
LNG	4
Master Meter *	59
Municipal	73
Direct Sale	22
Intrastate Pipeline	7
Private	6
Utility District	23
Total	194

* Master Meter systems = Mobile Home Parks, Apartments, and Housing Authorities



INFORMATION SYSTEMS DIVISION

Tracy Stinson
Chief

MISSION: *To provide effective and continually improving information management resources and services to the Authority.*

The Information Systems Division's (ISD) goal is to develop and implement systems that will support the Agency's objectives and to effectively and efficiently manage the agency-wide automated information resources. The Information Systems Division's staff consists of an Office Automation Specialist and an Information Systems Analyst III.

Duties of the Information Systems Section:

- ◆ Plan and coordinate information system resources for the Authority.
- ◆ Develop the three year Information Systems Plan.
- ◆ Oversee the administration of the LAN for 60 plus workstations.
- ◆ Maintain and modify PC systems as needed.
- ◆ Develop new systems as required.
- ◆ Coordinate information resource training.
- ◆ Maintain databases/data entry.
- ◆ Maintain mainframe and LAN system security.
- ◆ Oversee hardware management.
- ◆ Provide service Agency computer hardware

LEGAL DIVISION

Richard Collier
General Counsel

MISSION: To provide the Authority with sound and timely legal advice, effective counsel in the deliberative process, and zealous representation before state and federal agencies, reviewing courts and the General Assembly.

It is the responsibility of the Legal Division to provide in-house counsel to the Directors of the Authority. Attorneys from the Division also represent the Authority and the Directors in their official capacities before the Chancery Courts, Tennessee Court of Appeals, the Tennessee Supreme Court and in the Federal Courts. The Legal Division represents the Authority before the Federal Communications Commission and the Federal Energy Regulatory Commission. Members of the Legal Division often serve as Hearing Officers in contested cases and prosecutors in enforcement actions before the Authority. Division Attorneys are responsible for bill analysis as requested by the Legislative Fiscal Review Committee. They also assist in drafting rules to be promulgated by the Authority and prepare orders reflecting actions of the Directors in specific cases.

Accomplishments

During the past fiscal year over 1159 dockets were opened requiring action by the Authority. Members of the Legal Division provided continuing research, document preparation and counsel to the Directors and staff in most of these dockets. The Legal Division also prepared 472 orders in tariff matters and contested cases for issuance by the Authority.

The Legal Division assisted the Authority in issuing decisions in the universal service and unbundled network element pricing dockets and successfully defended the Authority in an appeal from the Authority's orders regarding United Telephone-Southeast's 1998 price regulation filing and BellSouth's directory assistance tariff.

Members of the Legal Division provided assistance to the Authority in rendering decisions on BellSouth's and United Telephone-Southeast's 2000 price regulation filings and issuing orders on reciprocal compensation for local traffic to internet service providers. The Legal Division assisted in the promulgation of rules addressing the use of contract service arrangements by telecommunications service providers with a focus on the termination provisions in those contracts. The Legal Division participated in hearings which were conducted on applications for certificates of public convenience and necessity and approval of franchise agreements filed by Competing Local Exchange carriers and gas companies and in proceedings setting rates for water and waste water treatment utilities.

The Legal Division assisted in the Authority's promulgation of additional rules relating to enforcement of Tennessee's "Do Not Call," slamming and cramming statutes. With the assistance of the Consumer Services Division, the Legal Division commenced show cause proceedings disregard for failure to comply with tariffs and slamming, cramming and Do Not Call violations.

LEGAL DIVISION

Members of the Legal Division served as Pre-Hearing Officers and provided counsel to the Authority Competing Local Exchange Carriers and BellSouth in the arbitration of interconnection agreements and complaints arising therefrom between Competing Local Exchange Carriers and BellSouth.

The Legal Division provided assistance to the Consumer Services Division in preparing and filing comments with the Federal Communications Commission related to number pooling and other number conservation measures.

The Legal Division continued its participation with the Division of Gas Pipeline Safety in the Authority's statewide "Dig Safely" program, including assistance with in-service training for the Metropolitan Davidson County Police Department.

Significant cases for the 2000-2001 fiscal year included:

♦ TRA

Final Decision issued in the case of BellSouth Petition to Convene a Contested Case Proceeding to Establish "Permanent Prices" for Interconnection and Unbundled Network Elements (UNEs)

Final Decision in the Application of Memphis Network, LLC for Certificate of Public Convenience and Necessity and Joint Petition of Memphis Light Gas and Water and A&L Networks-Tennessee, Inc. for Approval of Operating Agreement (first filing for approval of joint venture under recently enacted Tenn. Code Ann. § 7-52-103(d))

Final Decision in the case of Joint Application of the City of Kingsport and Tengasco Pipeline Corporation for approval of City Resolution and City Ordinance

Petition of MCI WorldCom to Enforce Interconnection Agreement with BellSouth

Complaint of Intermedia Communications, Inc. against BellSouth Telecommunications, Inc. to Enforce the Reciprocal Compensation Requirement of the Parties' Interconnection Agreement

In the Matter of the Interconnection Agreement Negotiations Between AT&T Communications of the South Central States, Inc., TCG Midsouth, Inc. and BellSouth Telecommunications, Inc. Pursuant to 47 U.S.C. § 252

Petition for Arbitration of the Interconnection Agreement between BellSouth Telecommunications, Inc. and Intermedia Communications, Inc. pursuant to Section 252(b) of the Telecommunications Act of 1996

Petition for Arbitration of the Interconnection Agreement between BellSouth Telecommunications, Inc. and Time Warner Telecom of Mid-South, L.P. pursuant to Section 252(b) of the Telecommunications Act of 1996

Petition for Arbitration ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. pursuant to Section 252(b) of the Telecommunications Act of 1996

All Telephone Companies Filings Regarding Reclassification of Pay Telephone Service as Required by FCC Docket 96-128

LEGAL DIVISION

◆ Tennessee Court of Appeals and Supreme Court

Opinion issued in favor of the TRA's Decision in the case of BellSouth Telecommunications Directory Assistance

Opinion issued in favor of the TRA's Decision in the case of United Telephone Southeast, Inc. Tariff to Reflect Proposed Changes Under Price Regulation Plan

Appeal perfected from TRA Decision in the case of BellSouth Petition to Convene a Contested Case Proceeding to Establish "Permanent Prices" for Interconnection and Unbundled Network Elements

Appeal perfected from TRA Decision in the case of Discount Communication's Complaint against BellSouth Telecommunications, Inc.

Appeal perfected from TRA Decision in the case of All Telephone Companies Filings Regarding Reclassification of Pay Telephone Service as Required by FCC Docket 96-128

Rule 11 Application to the Tennessee Supreme Court granted in BellSouth Advertising and Publishing Corp. v. Tennessee Regulatory Authority

◆ U.S. District Court

Complaint and Petition for Judicial Review in the case of BellSouth Telecommunications, Inc. v. Brooks Fiber Communications of Tennessee, Inc.

Complaint and Petition for Judicial Review in the case of BellSouth Telecommunications, Inc. v. Adelphia Business Solutions of Nashville, L.P. (formerly d/b/a Hyperion of Tennessee, L.P.).

Complaint and Petition for Judicial Review in the case of BellSouth Telecommunications, Inc. v. NextLink Tennessee, Inc.

Complaint and Petition for Judicial Review in the case of BellSouth Telecommunications, Inc. v. Time Warner Telecom of the Mid-South, L.P. Generic Docket to Establish UNE Prices for Line Sharing Per FCC 99-355, and Riser Cable and Terminating Wire as Ordered in TRA Docket 98-00123

TELECOMMUNICATIONS DIVISION

Joseph T. Werner
Chief

Mission: To provide the directors of the TRA with the detailed analysis needed to make informed decisions on issues related to the development of competitive markets and the preservation of affordable prices for telecommunications services in Tennessee.

In 1995, the Tennessee General Assembly revised the laws for regulating telecommunications in Tennessee. A year later Congress re-wrote the Federal telecommunications laws in the first major rewrite of Federal telecommunications laws since 1934. Both the State and Federal acts introduced competition in local telephone markets, called for reduced regulation, and directed the preservation of universal telephone service. While the new laws establish the basic framework for achieving these goals, state and federal regulators, like the TRA, are responsible for adopting the rules, regulations, policies and enforcement mechanisms to implement the legislative framework.

With the passage of State and Federal legislation introducing local telephone competition, the role of regulators in this area has changed dramatically. Previously, the primary responsibility of telecommunications regulators was to set rates and prices based on accounting data and financial forecasts. Now, the primary focus of regulators is on developing a competitive marketplace while maintaining affordable prices. A large part of the work done by the Telecommunications Division is now dictated by the statutory requirements of the Telecommunications Act of 1996 and mandates by the Federal Communications Commission. Regulators now serve as referees, arbitrators and mediators to resolve disputes between competitive carriers. The Telecommunications Division is now addressing such unprecedented issues as breaking down the telephone network into its individual components and pricing each component, certifying new entrants into the local telephone market, establishing a universal service fund to maintain affordable telephone rates and resolving disputes between providers.

Implementing the requirements of the new laws is proving to be an arduous, yet challenging responsibility. To prepare the detailed analysis needed for the directors to make informed decisions not only requires a strong financial background but also knowledge of the telephone network. The Telecommunications Division now consists of eighteen employees including a telecommunications engineer, four CPAs and three economists. The Telecommunications Division works in concert with the Economic Analysis, Consumer Services and Legal Divisions in formulating recommendations on telecommunications issues before the TRA.

Still, Tennesseans are seeing significant competitive activity in the business segments of the local telecommunications markets despite a large number of new entrants that have declared bankruptcy, ceased operations or otherwise experienced significant financial difficulties from the dramatic decline in capital dollars now available to these new entrants. As of June 30, 2001, one hundred (100) facilities-based competitors were certificated to provide local telephone service in the state, with twenty-eight (28) of these providers offering services in Tennessee. These 28 competitors serve 335,598 lines in Tennessee, primarily business customers in the State's four (4) largest metropolitan areas. This represents 10% of Tennessee's total lines open to competition and 28% of the business lines subject to competition. On June 30, 2001, new market entrants had invested \$489 million in equipment and facilities in Tennessee since the passage of these new laws. In contrast, on December 31, 1996 only six (6) facilities-based competitors were offering local telephone service in Tennessee, serving 300 lines. In 1996, competitors had invested \$56 million in equipment and facilities. Fifty-six (56) resellers are also providing local service to 33,480 lines. The majority of those lines are residential lines in the metropolitan areas.

TELECOMMUNICATIONS DIVISION

Like previous years, the 2001 fiscal year was an exciting year for the Telecommunications Division. Below is a list of some of the major activities of the Telecommunications Division during the fiscal year.

◆ **Arbitrations of Interconnection Agreements.**

- The Authority arbitrated five (5) interconnection agreements and one hundred thirty seven (137) interconnection issues between competing local exchange carriers and BellSouth. The 1996 Federal Telecom Act allows parties to request arbitration or mediation from state regulatory commissions after the parties have negotiated for at least 135 days. Among the issues arbitrated were performance standards for the provision of wholesale services, intercarrier compensation for terminating calls of another provider, collocation requirements and terms and conditions regarding the availability of unbundled network elements.

◆ **Interconnection Complaints.**

- Resolved ten (10) formal interconnection disputes between competing carriers and incumbent providers. In most cases, the Authority was asked to interpret the language and requirements of the interconnection agreement signed by the parties. Five (5) of these complaints concerned whether intercarrier compensation was owed on calls to Internet Service Providers (ISPs). The authority has consistently ruled that intercarrier compensation is due on calls to ISPs. BellSouth appealed each of these complaints to Federal District Court.

◆ **Agreements to Interconnect the Networks of New Entrants with the Networks of Existing Telephone Companies.**

- For multiple providers of telephone services to exist, there must be compatibility between providers so that customers of the different providers may call each other. Both the State and Federal telecommunications acts require all providers of telecommunications to interconnect their facilities with the facilities of other carriers. During the fiscal year, the Telecommunications Division reviewed seventy-two (72) interconnection agreements, twenty-one (21) Commercial Mobile Radio Service interconnection agreements, fifty-two (52) resale agreements and one (1) Commercial Mobile Radio Service resale agreement.

◆ **Unbundled Network Element Pricing**

- The Federal Telecom Act requires the Bell Operating Companies to “unbundle” their networks so that new providers can purchase network elements from the incumbent providers in order to provide competing services. During the fiscal year, the Authority issued five (5) orders addressing numerous issues relevant to establishing prices for unbundled network elements including the establishment of interim rates for line sharing which permits consumers to obtain voice communications and high-speed Internet access from the carrier of their choice over the same line.

TELECOMMUNICATIONS DIVISION

◆ Certification of Competitive Carriers

- Analyzed and approved the application of thirty-seven (37) companies requesting designation as facility-based competitive local exchange carriers including certification of Memphis Network, an affiliate of Memphis Light Gas and Water. The Telecommunications Division also reviewed thirteen (13) resellers of local telephone service and twenty-eight (28) resellers of long distance service during the fiscal year.

◆ Review of Contract Service Arrangements

- One of the ways that incumbent local exchange carriers have responded to the impending local telephone competition is by offering special pricing arrangements to selected customers. These arrangements, offered to large and medium-sized business customers, provide discounted prices to customers who commit to continue using BellSouth's service for a specified period of time, typically two to four years. BellSouth has offered over 306 contract service arrangements since 1995. In 2001, the Authority adopted rules regarding contract service arrangements including limitations on termination penalties.

◆ Small and Minority Owned Business Plans

- Enforced T.C.A. § 65-5-212 by collecting 224 Small and Minority Owned Business Plans from certificated providers of telecommunications services and collecting required contributions to the fund.

◆ Tariff Review

- Reviewed 691 tariff filings by telecommunications companies to introduce new services or to revise the rates, terms and conditions of existing services.

◆ Pay Telephone Certification

- Registered 36 payphone providers and 3,934 payphones during the fiscal year. The Authority also established cost-based rates for payphone access lines per the directives of the Federal Communications Commission (FCC).

TELECOMMUNICATIONS DIVISION

Telecommunications Service Providers Pertinent Data As of June 30, 2001

- Incumbent Local Exchange Carriers	18
- Competitive Local Exchange Carriers (Facilities Based)	100
- Telephone Cooperatives (Not regulated by the TRA)	10
- Local Service Resellers	92
- Long Distance Resellers	295
- Long Distance Companies (Facilities-Based)	4
- Pay Telephone Providers	233
- Pay Telephones	29,021
- Interconnection Agreements between Competitive Local Exchange and Incumbent Carriers	114
- Resale Agreements between Local Resellers and Incumbent Carriers	115
- Interconnection Agreements between Commercial Mobile Radio Services (CMRS) and Incumbent Carriers	56
- Resale Agreements between Commercial Mobile Radio Service (CMRS) and Incumbent Carriers	6

TELECOMMUNICATIONS DIVISION

Competitive Local Exchange Companies Certified by the TRA (As of October 31, 2001)

- | | | |
|--|---|---|
| 1. 360networks (USA) | 33. Digital Teleport | 65. Metropolitan Fiber Systems of Tennessee |
| 2. Access Integrated Networks | 34. DSLnet Communications | 66. Momentum Business Solutions |
| 3. Accutel Communications | 35. Eagle Communications | 67. NA Communications |
| 4. Accutel of Texas | 36. Electric Power Board of Chattanooga | 68. NationNet Communications |
| 5. Actel Integrated Communications | 37. Enron Broadband Services | 69. Navigator Telecommunications |
| 6. Adelphia Business Solutions of Nashville | 38. Essex Communications | 70. Network Plus |
| 7. Adelphia Business Solutions Operations | 39. Evolution Networks South | 71. Network Telephone Corporation |
| 8. Aeneas Communications | 40. Gabriel Communications of Tennessee | 72. New Edge Network |
| 9. Alec, Inc. | 41. Global Crossing Local Services | 73. New South communications |
| 10. Allied Riser of Tennessee | 42. Global NAPs Gulf | 74. NOS Communications |
| 11. Alltel Communications | 43. ICG Telecom Group | 75. Nu Vox Communications |
| 12. American Communication Svs. of Chattanooga | 44. IDS Telcom | 76. One Point Communications |
| 13. American Fiber Systems | 45. IG2, Inc. | 77. Premiere Network Services, Inc. |
| 14. Arbros Communications Licensing Co., SE | 46. Intermedia Communications | 78. Qwest Communications Corp. |
| 15. AT&T Communications | 47. ITC^DeltaCom Communications | 79. Rhythms Links |
| 16. BellSouth BSE | 48. JATO Operating Two Corp. | 80. Sprint Communications Company |
| 17. Ben Lomand Communications | 49. KMC Telecom III | 81. TCG MidSouth |
| 18. Birch Telecom of the South | 50. KMC Telecom V | 82. Telepak Networks |
| 19. BlueStar Network | 51. Knology of Tennessee | 83. Tele-SyS, Inc. |
| 20. Broadplex | 52. LCI International Telecom d/b/a Qwest | 84. Teligent Services |
| 21. Broadslate Networks of Tennessee | 53. LecStar Telecom | 85. Time Warner Telecom |
| 22. Broadstreet Communications | 54. Level 3 Communications | 86. Touch America |
| 23. Brooks Fiber Communications of Tennessee | 55. Lightyear Communications | 87. US West Interprise America d/b/a Qwest |
| 24. Business Telecom | 56. Madison River Communications | 88. US LEC of Tennessee |
| 25. CaroNet | 57. Maverix.com | 89. US TelePacific Corp. |
| 26. CCTN, Inc. d/b/a Connect! | 58. Maxcess, Inc. | 90. Verizon Select Services |
| 27. CenturyTel Solutions | 59. MCG Communications f/k/a Mpower | 91. VIVO-TN |
| 28. Cinergy Communications | 60. MCI WorldCom Communications | 92. Williams Communications |
| 29. Citizens Telecommunications Company | 61. MCImetro Access Transmission Services | 93. WinStar Wireless |
| 30. Connect!LD | 62. McLeod USA Telecommunications | 94. XO Tennessee |
| 31. CTSI, Inc. | 63. Memphis Networkx | 95. Xspedius Corp. |
| 32. DIECA Communications d/b/a Covad | 64. Metromedia Fiber Network Services | 96. Zephion Networks |
| | | 97. Z-Tel Communications |